

# United States Senate

WASHINGTON, DC 20510

February 6, 2020

Kurt Thiede  
Region 5 Administrator  
U.S. Environmental Protection Agency  
77 West Jackson Blvd.  
Chicago, IL 60604

Dear Administrator Thiede:

We write to you to request that in your new role as Environmental Protection Agency (EPA) Region 5 Administrator, you work to change some of the troubling new norms that have developed, including decreases in staffing and enforcement, and that you prioritize protecting human health and safety and supporting the hard-working career professionals within your regional jurisdiction.

Of particular note, we are concerned about the marked declines in enforcement—a critical mechanism to ensure environmental laws and regulations are being followed—which may fail to hold accountable polluters that harm the public health and the environment. We are specifically concerned by the reduction of enforcement actions, inspections, and staff in the past three years, and we strongly urge you to make it a priority to address these concerns. Without these essential components, the health and safety of our constituents is compromised—especially for the most vulnerable populations who are disproportionately affected by pollution.

We also would like to bring your attention to a few ongoing issues, including issues we have previously requested that Region 5 address. Region 5 should work to take all necessary steps in protecting communities in Illinois, Michigan, Wisconsin, Ohio, Minnesota, Indiana, and its 35 tribes from harmful pollution, which includes, but is not limited to, reducing ethylene oxide pollution; exercising EPA's discretion to use more protective thresholds for soil clean-up for manganese and lead and increasing lead emissions monitoring; cleaning up Superfund sites and addressing PFAS contamination across the Great Lakes Basin; working to reduce harmful algal blooms and the discharge of toxic chemicals into the Great Lakes; and ensuring that proper enforcement actions are taken for violations and reporting issues.

Thank you for your consideration of these requests. We look forward to working with you to ensure families in Region 5 live in communities that are safe, clean, and protected by the U.S. EPA.

Sincerely,



Richard J. Durbin  
United States Senator



Tammy Duckworth  
United States Senator



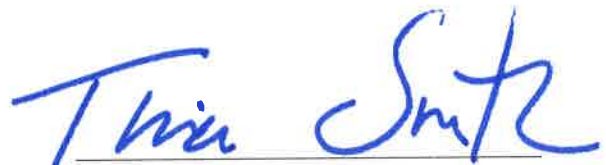
Debbie Stabenow  
United States Senator



Gary C. Peters  
United States Senator



Amy Klobuchar  
United States Senator



Tina Smith  
United States Senator



Sherrod Brown  
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL ADMINISTRATOR  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

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The Honorable Richard J. Durbin  
United States Senate  
Washington, D.C. 20510

Dear Senator Durbin:

Thank you for your February 6, 2020 letter regarding my appointment as the U.S. Environmental Protection Agency Region 5 Administrator. It is the highest privilege and honor to assume this role and serve the constituents and communities throughout the Great Lakes region. Like you, my family calls this region – home. It is for this reason, and many others, that I take this responsibility seriously. In my new role, I fully intend to prioritize protecting the environment, public health and safety, and to support the vibrant economic growth and prosperity of our region. I appreciate the opportunity to highlight the important environmental issues our region is actively addressing and look forward to accomplishing our shared priority of continued stewardship of the environment and Great Lakes.

In your letter, you highlight the responsibility of EPA Region 5 to address the following environmental issues and oversee the protection of communities from harmful pollution, including: ethylene oxide; to exercise discretion and use protective thresholds for soil clean-up for manganese and lead; increase lead emissions monitoring; to clean up Superfund sites; address PFAS contamination across the Great Lakes Basin; reduce algal blooms and the discharge of toxic chemicals into the Great Lakes; and ensure that proper enforcement actions are taken for violations and reporting issues.

It is our mission and collective commitment to achieve cleaner air, water, and land, to safeguard public health and provide our local communities with the foundational components and opportunity for economic revitalization. As your letter indicates, the hard-working regional career professionals are critical to the success of our core mission. EPA Region 5 remains committed to effectively deploying to emergency responses to protect the environment and public health from hazardous substance releases. Throughout my entire public service career, I have experienced emergency response activities at the state, and now federal level, and I can attest that the dedicated career civil servants that serve in this capacity here in Region 5 are among the most dedicated and competent professionals I have ever had the opportunity to work with. These unique and memorable experiences, often impacting constituents in states just like yours across the region, have truly demonstrated the timely, professional and competent responses to emergencies that I would be honored to share with you.

In addition, we remain committed to reinvigorating communities through strategic investment in brownfield cleanups and the delisting of National Priority List Superfund sites, in order to restore contaminated properties and areas back into productive use. It has been humbling to witness an underlying theme emerge with each Brownfield grant, each associated clean-up, and each formerly contaminated property now restored for productive use. That theme consists of a series of committed partners, champions, and dedicated professionals. In my new role, I remain committed to building those partnerships and celebrating those accomplishments.

As you know, EPA has been pursuing soil remediation at sites throughout Region 5 contaminated with lead, and on a more limited basis manganese. Your letter expresses the desire for EPA to use more protective thresholds for these lead and manganese sites. EPA has been utilizing the resources of the regional Superfund Removal Program in order to respond quickly and remediate properties with the highest levels of contamination. The Removal Program is guided by the Removal Management Levels (RMLs), which are risk-based, chemical-specific concentrations calculated using toxicity values and exposure assumptions. The RMLs were developed by a cross-regional workgroup of EPA risk assessors and removal site managers. EPA will pursue additional coordination with our local and state partners regarding those properties where the soil contamination may not exceed the RML, or the magnitude of the problem is beyond the scope of the Superfund Removal Program resources and no viable responsible party can be found.

Furthermore, I am proud to share that Region 5 has delivered significant contributions to providing cleaner air to our communities, consistent with EPA's national priority to support efforts to attain the National Ambient Air Quality Standards (NAAQS). In 2019, Region 5 led the nation and announced the attainment of the NAAQS in 6 communities in the region. We look forward to an unprecedented 15 more areas that are anticipated to attain the NAAQS in 2020. These important achievements serve as a successful example of partnership between states, industry, and the federal government to attain health-based air quality standards and improve the overall health and quality of life for communities.

Across the nation, EPA is actively engaged in a two-pronged approach to address risk from ethylene oxide emissions. First, EPA is reviewing Clean Air Act regulations for industrial facilities that emit ethylene oxide. Second, our regional office has been working with state and local authorities to gather additional information from individual ethylene oxide sources to assess risk and secure emission reductions on a timeline faster than EPA's national rulemaking can achieve. In addition, the region has assisted states with the evaluation of control scenarios, air dispersion modeling, stack test protocols, and communications support. All of these efforts have culminated in reduced risk from ethylene oxide emissions in several communities across the Region.

As the Program Manager of the Great Lakes National Program Office located in Region 5, I am actively engaged in ensuring that EPA continues its successful implementation of the objectives we are seeking to accomplish in protecting and restoring the Great Lakes through the Great Lakes Restoration Initiative (GLRI). In addition, through implementation of Clean Water Act and Safe Drinking Water Act programs, we seek to reduce the discharge of toxic chemicals into the Great Lakes and address the issue of excess nutrients and the harmful algal blooms that can result. In October 2019, Administrator Andrew Wheeler announced the release of the Great Lakes Restoration Initiative Action Plan III, which will guide the implementation of GLRI activities over the next five years. The GLRI Action Plan III clearly articulates a series of aggressive goals, objectives, commitments, and measures that will ultimately serve as the next 5-year "blueprint for success" of the GLRI through FY 2024. EPA Region 5 fully understands the importance of the Great Lakes and is committed to continue working with Congress, as well as our state, tribal, local and federal partners, to protect human health, support economic growth, and improve the environmental conditions for your constituents, and our future generations, that recreate, work, and live in the Great Lakes basin.

In February 2019, EPA announced the PFAS Action Plan, the first multi-media, multi-program, national research, management and risk communication plan to address a challenge like PFAS. Region 5 is actively engaged in addressing PFAS contamination across the Great Lakes Basin and supporting the Agency-wide PFAS Action Plan by lending technical assistance to our state partners, providing analytical support and conducting research efforts. EPA is also supporting our state partners by coordinating on PFAS issues, and closely coordinating on sites where EPA is the lead for CERCLA contamination, and the state is the lead for PFAS contamination. Since the introduction of the Action Plan, EPA has made significant progress to help states and local communities address PFAS.

Over the past year, the EPA has built on the momentum of the launch of the Action Plan put in motion. The Agency has made progress in all of EPA's program areas—from groundwater cleanup guidance, to new test methods that are helping to move our research efforts forward, to updates to our Toxics Release Inventory, to progress on updating our drinking water standards. These actions reflect the execution of the comprehensive and coordinated approach outlined in the Action Plan. On February 26, the EPA released the EPA PFAS Action Plan: Program Update, which describes the Agency's accomplishments since the release of the Action Plan in greater detail. The Program Update is publicly available on the EPA's website at <https://www.epa.gov/pfas/pfas-action-plan-program-update-february-2020>.

In order to continue to build upon these successes, it is equally important that EPA maintain a diligent enforcement and compliance assurance presence in our region. Although you have identified a decline in the annual number of inspections performed by EPA, this trend is nuanced by a variety of factors, and should not be interpreted as a decline in EPA's commitment to the goal of compliance with federal environmental laws. As states have gained authorization to operate delegated environmental programs, they generally have assumed the role of performing traditional inspections. EPA takes seriously and firmly retains its oversight authority and performs inspections, where appropriate, along with targeted data reviews and other compliance monitoring techniques. EPA also supports authorized states through joint planning of our respective inspection priorities each year. EPA also utilizes other compliance monitoring activities that do not require an inspector to go on-site. These include audits and other targeting efforts using available data. These efforts help EPA focus its resources where they are needed most to address significant environmental problems. I encourage you to review the recently announced national highlights of EPA's FY 2019 enforcement and compliance achievements by accessing <https://www.epa.gov/newsreleases/epa-announces-2019-annual-environmental-enforcement-results>.

To help us achieve this vision, last year we realigned enforcement functions from several divisions to create an Enforcement and Compliance Assurance Division in Region 5. Furthermore, I am also proud to inform you that we have installed a permanent career enforcement director dedicated to delivering a comprehensive and effective regional enforcement and compliance assurance program. I am optimistic, as we fill key vacancies and improve our coordination with our state regulatory partners, that we can achieve even further environmental compliance.

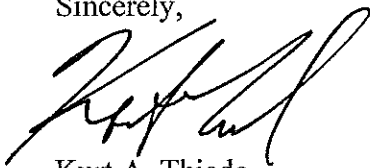
In addition to using a full array of compliance assistance methods, when environmental laws have been violated the Region has not hesitated to proceed with formal enforcement. In 2019, Region 5 initiated 204 civil enforcement cases, totaling \$360 million in penalties. As federal

regulators, it is our role to operate and fulfill our mission of protecting the environment in a fair, consistent, and accountable manner for the benefit of both the American taxpayer and the regulated community. As we proceed into FY 2020, we are continuing our focus on expediting site cleanup, deterring noncompliance, and returning facilities to compliance with the law, while respecting the cooperative federalism partnerships of our nation's environmental laws.

As I have experienced throughout my professional civil service career, I know firsthand that it takes highly qualified and dedicated staff to accomplish our critical mission of protecting public health and the environment. In my first all-staff address as Regional Administrator, I firmly committed to the entire Region my commitment to filling the positions critical to the success of Region 5. In fact, we have actively taken steps to achieve a level of hiring that will stabilize our on-board workforce at or even slightly above our annual FTE ceilings. During my first few weeks, I have approved more than 45 internal and external recruitment opportunities. Of note, this approval includes an additional 36 external recruitment actions. We now have more than 100 external hiring actions at various stages. This level of hiring includes a longer-range consideration of expected attrition to support our goal of reaching and staying at or near our FTE ceiling for FY 2020. Building on this, I have more long-term strategies planned that will further accelerate these efforts, as we have established metrics to measure our progress and are exploring ways to attract even better and more diverse lists of candidates to fill our vacancies. As we make further progress in building and maintaining our valued regional workforce, I will make sure to share updates with you.

Again, thank you for your letter. I trust that this information is responsive and helpful to you in accomplishing our shared priorities of protecting the environment and the health and safety of the constituents of the Great Lakes region. However, the success and priorities I have outlined here are truly just the beginning. The successes and accomplishments of our Region, and the everyday commitment of the dedicated staff in achieving our goals in Region 5, are outstanding and deserve the utmost recognition. It is my new honor and privilege as Regional Administrator to share them with you and with the American public. Enclosed is our Region 5 2019 Year in Review that further illustrates the significant work and accomplishments of our regional workforce. As opportunities for future collaboration arise, I welcome our continued interaction and would be interested in the opportunity to meet with you to better understand your concerns, and to further discuss my priorities and vision for the Region. Again, I invite you to contact me directly, or your staff to reach out to EPA Region 5, if we can be of any assistance in the interim.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kurt A. Thiede', written over a horizontal line.

Kurt A. Thiede  
Regional Administrator

Enclosure